



## An Informed Approach to Legal Cannabis: Compliance, Investing and Marketing

### 2019 Legislative Agenda

The 2019 Legislative Session will feature an important debate on several key policy priorities for the regulated cannabis industry. As we work to defend the integrity of the legal marketplace created by Washington voters, we will generally support any effort that seeks to protect a safe, quality-controlled and regulated marketplace that keeps products out of the hands of minors. We will also forward legislation that advances our still-nascent industry so that Washington may continue to lead the nation while additional states take their initial steps in creating their own legal marketplaces and cannabis policy is debated by the federal government.

#### Compliance reform

The regulated marketplace authorized by state voters would not exist today without the collaborative support of Washington elected leaders, state regulators, local elected officials and license-holders. Everyone is playing an active role in creating and upholding the safety and viability of our regulated marketplace including how it has evolved over the last six years. We are proud that the success rate for retail compliance checks by the LCB to keep products out of the hands of minors exceeds the compliance rates of the liquor/spirits and tobacco industries.

Present-day realities of the environment around legal cannabis should be reflected in our state's compliance and infraction process. WACA supports legislation modelled after the systems that have been in place at Labor and Industries for decades. That system recognizes that industry members should have the opportunity to rectify mistakes as long as the issues do not represent risk to public safety. The key pillars of this proposed reform are:

- Institute a WSLCB Compliance Program so that license-holders may proactively request assistance and inspections to help support full conformity with the law, without threat of citation
- When there is no risk to health or public safety:
  - align with compliance process in place with the alcohol industry and issue written warnings prior to any enforcement action so that license-holders may come back into compliance without fear of losing their business
  - waive fines, civil penalties, or administrative sanctions for violations when brought back into compliance within seven days
  - acknowledge the progress of Washington's regulated system and strengthen its future by finding that administrative violations that occurred before June 30, 2018 should not count toward permanent license cancellation



### **Clarifying what is/is not a medical claim**

Innovation in the marketplace includes significant progress toward products developed to maximize benefits of cannabis beyond recreational adult use. Without misleading or providing false information to consumers, WACA will propose legislation that mirrors FDA allowances to clarify what is and is not a “medical health claim” to allow product labels to include such terms as, and derivatives of, *wellness, maintain, support, assist, promote, and relief*.

- A “medical health claim” describes the effect a substance has on curing, reducing the risk of or preventing a disease, e.g., “this product may reduce the risk Crohn’s disease.”
- A “structure or function claim” describes the intended role of a substance to maintain a structure or function of the body, or characterizes the intended mechanism by which the substance acts to maintain such structure or function - provided that such a claim is substantiated as truthful, e.g., “this product may assist in digestion.”

### **Out-of-state investment**

Since the passage of I-502, investment in Washington-licensed businesses has been restricted to only Washington residents, a barrier that does not exist in any other state-regulated cannabis marketplace. As legalization of cannabis has expanded nationwide, the limitations in-state should be adjusted to account for out-of-state competition. Like other Washington-grown and produced products, cannabis businesses should be empowered to compete with their peers in other states and our state system should assist smaller businesses competing with larger, more well-capitalized license-holders. WACA will propose legislation that eliminates this restriction while retaining our state’s rigorous requirements for transparency for all qualified investors.

### **Align cannabis penalty system with alcohol industry standards**

To strengthen the legal system, lawmakers should implement lessons learned since legalization and adopt the best practices demonstrated in the liquor/spirits industry. A uniform approach to enforcing existing laws for alcohol, expanded to include cannabis, makes sense without undermining any safety measures intended to protect kids. WACA will propose to require the WSLCB to investigate and properly enforce penalties for license ownership violations like illegal surplus license ownership. In addition, WACA’s proposal will further align the cannabis industry penalty system with that of the liquor/spirits industry by changing the offense level for sale of cannabis to a minor from a felony to a misdemeanor.

### **Limited merchandising and sale of certain non-THC products in licensed retail stores**

Under current law, 502-licensed retailers are not permitted to sell anything other than cannabis products containing at least 0.3% THC and cannabis paraphernalia. As the industry continues to expand, it has become clear that this law is unnecessary and overly restrictive on businesses that face many other competitive market challenges. WACA proposes allowing limited merchandising in retail establishments in the form of branded clothing, cleaning products, and CBD-only products.